

Order

Michigan Supreme Court
Lansing, Michigan

October 17, 2019

Bridget M. McCormack,
Chief Justice

158259 & (61)

David F. Viviano,
Chief Justice Pro Tem

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

v

SC: 158259
COA: 336187
Allegan CC: 14-018862-FC

ANTHONY RAY McFARLANE, JR.,
Defendant-Appellant.

On order of the Court, the motion for leave to file brief amicus curiae is GRANTED. The application for leave to appeal the August 7, 2018 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1).

The appellant shall file a supplemental brief within 42 days of the date of this order addressing: (1) whether the prosecution's medical expert invaded the province of the jury by using phrases like "abusive head trauma" and "definite pediatric physical abuse" to label her diagnosis; and (2) if so, whether the defendant has satisfied the plain error standard set forth in *People v Carines*, 460 Mich 750, 763 (1999). In addition to the brief, the appellant shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellant's brief. The appellee shall also electronically file an appendix or, in the alternative, stipulate to the use of the appendix filed by the appellant. A reply, if any, must be filed by the appellant within 14 days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

The Criminal Defense Attorneys of Michigan, the Innocence Network, and the Prosecuting Attorneys Association of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 17, 2019

Clerk